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| APPLICATION NO.   | FILING DATE   | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|---|---------------|----------------------|-----------------------|------------------|
| 09/873,250  | 06/05/2001    | Yuichi Matsumoto     | 35.C15419             | 5978             |
| 5514  | 7590          | 04/21/2008           | EXAMINER              |                  |
| FITZPATRICK CELLA HARPER & SCINTO<br>30 ROCKEFELLER PLAZA<br>NEW YORK, NY 10112 |               |                      | SALTARELLI, DOMINIC D |                  |
| ART UNIT  | PAPER NUMBER  |                      |                       |                  |
|   | 2623          |                      |                       |                  |
| MAIL DATE   | DELIVERY MODE |                      |                       |                  |
| 04/21/2008  | PAPER         |                      |                       |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 09/873,250             | MATSUMOTO ET AL.    |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | DOMINIC D. SALTARELLI  | 2623                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 March 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 18-21 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 18-21 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 8, 2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed February 8, 2008 have been fully considered but they are not persuasive.

First, the applicant cites an apparent conflict in the examiner's characterization of Fukumoto, where the examiner states that Fukumoto teaches displaying a lower hierarchical level menu on the same screen as the prescribed hierarchical level menu, but further states the prescribed menu is not shown with the lower level menu (applicant's remarks, page 5).

In response, the examiner is stating that the menus each occupy the same screen, but at different times. There is only one screen on which the menus are displayed, each menu occupying the screen in turn. This is why the examiner distinguishes that the menus are not displayed with each other, as this designates displaying the menus on the same screen at the same time. It is the modification in view of Bertram who teaches it was known in the art at the time to

display a series of menus in a cascaded manner on the same screen at the same time.

Second, the applicant states that the combination fails to teach or suggest sequentially displaying a prescribed hierarchical level menu and displaying, on the same screen, a lower hierarchical level menu and a registration menu of registration items relating to the function keys based on a selected one of items from the lower hierarchical level menu (applicant's remarks, page 5). Applicant states this is because Fukumoto only teaches displaying one menu at a time, Bertram has no teaching of assigning functions to function keys, and that neither Fukumoto or Wugosky individually teach assigning a function to a set of the selected items in each hierarchical level menu to a function key.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, it is Fukumoto who teaches sequentially stepping through a series of hierarchical level menus and selecting the lowest items on the menu in a manner that makes them quickly accessible. Wugosky teaches making such items quickly accessible using a registration menu which maps the items to function keys on a remote control on a one to one basis. Bertram teaches a menu system wherein when a user sequentially steps

through a series of hierarchical level menus, each menu is displayed on the same screen with each other.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukumoto et al. (US 2002/0054146 A1, of record) [Fukumoto] in view of Wugoski (6,690,392, of record) and Bertram (6,011,546, of record).

Regarding claim 18, Fukumoto discloses a function assignment method of an operation device, comprising sequentially the steps of:

displaying a prescribed hierarchical level menu comprising a plurality of prescribed items (fig. 5);

selecting by a user one of the prescribed items (a user first selects “Various Setting” paragraph 52);

displaying, on the same screen as the prescribed hierarchical level menu, a lower hierarchical level menu according to the selected prescribed item, the lower hierarchical level menu comprising a plurality of lower items (figs. 7A-C);

selecting by the user one of the lower items (a user next selects “Custom Setting” paragraph 52);

assigning a function according to a set of the selected items in each hierarchical level menu (user's specify menu functions to be more readily accessible from the main menu, paragraphs 52 and 68).

Fukumoto fails to disclose the lower hierarchical level menu is displayed on the same screen with the prescribed hierarchical level menu, and displaying a registration menu on the same screen with the prescribed and lower hierarchical level menu which comprises registration items relating to function keys according to selection of one of the items in the lowest hierarchical level menu, selecting by the user one of the registration items and assigning the function to a function key relating to the selected registration item with one-to-one correspondence.

In an analogous art, Wugoski teaches, after a user has input a desired series of inputs to define a function, the user is presented with registration menu comprising items that relate to function keys, where selecting by the user one of these items assigns the function to a function key relating to a selected item from the registration menu with one-to-one correspondence (col. 8, lines 29-50), providing the benefit of directly accessing a desired function independent of an on screen menu (col. 1, lines 48 – col. 2 line 18).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Fukumoto to include displaying a registration menu comprising registration items relating to function keys, selecting by the user one of the registration items and assigning the function to a function key relating to the selected registration item with one-to-one

correspondence, as taught by Wugoski, for the benefit of directly accessing a desired function independent of an on screen menu. This registration menu is displayed on the same screen as the lower hierarchical menu, as it corresponds to the custom setting region 25 shown in fig. 7B of Fukumoto, which occupies the same screen as the identified lower hierarchical menu 24.

Fukumoto and Wugoski fail to disclose the second hierarchical level menu is displayed on the same screen with the first hierarchical level menu.

In an analogous art, Bertram teaches displaying hierarchical level menus in a cascaded fashions such that first and second hierarchical level menus are displayed on the same screen (fig. 12, col. 38, lines 21-50).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Fukumoto and Wugoski to display the second hierarchical level menu on the same screen with the first hierarchical level menu, for the benefit of providing to the user the contents of the first menu in addition to the contents of the second menu, such that the user will not forget what options are available from the first menu when browsing the second menu.

Regarding claims 19 and 20, Fukumoto, Wugoski, and Bertram disclose the method of claim 18, wherein the operation device is a remote controller for a television receiver (Wugoski, fig. 4) and the prescribed hierarchical level menu comprises image quality adjustment ['Image Quality'] and sound adjustment ['Sound Quality'] and the second hierarchical level menu comprises contrast

[‘Sharpness’] and luminance [‘Brightness’] for image quality adjustment and sound volume [‘Speaker’] for the sound adjustment (Fukumoto, figs. 5 and 7A-C).

Regarding claim 21, Fukumoto, Wugoski, and Bertram disclose the method of claim 18, wherein the prescribed and lower hierarchical level menus and the registration menu are adjacently displayed stepwise according to the selection by the user, on the same screen (Bertram, fig. 12).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIC D. SALTARELLI whose telephone number is (571)272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dominic D Saltarelli/  
Examiner, Art Unit 2623